

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CEDRIC CHUBB,

Plaintiff,

v.

Case No. 12-cv-12612

Hon.: Sean F. Cox

Magistrate Judge Mark A. Randon

CON-WAY FREIGHT, INC., a Delaware
Corporation, CON-WAY ENTERPRISE
SERVICES, INC., a Delaware Corporation, and
CON-WAY, INC. (a/k/a DELAWARE CON-WAY
INC.), a Delaware Corporation, Jointly & Severally,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S ANSWER
AND ENTER A DEFAULT JUDGMENT OR PROTECTIVE ORDER (DKT. NO. 10)**

This matter is before the Court on Plaintiff's motion to strike Defendant's Answer and enter a default judgment or, alternatively, a protective order (Dkt. No. 10). The motion turns on a dispute over what constitutes 25 interrogatories under Federal Rule of Civil Procedure 33(a)(1). Specifically, Plaintiff objects to Defendant's refusal to respond to 11 interrogatories, which included an additional 79 subparts and sub-subparts. Plaintiff requests that Defendant be sanctioned for failing to respond to the interrogatories. Defendant argues that it was proper to refuse to answer the interrogatories as they exceeded the limit of 25. The issue presented has been fully briefed (Dkt. Nos. 10, 11); oral argument was heard on October 16, 2012.

For the reasons stated on the record, having carefully reviewed the interrogatories at issue and giving all close calls to Plaintiff, the Court finds that Plaintiff propounded a minimum of 25

– not 11– interrogatories to Defendant when “all discrete subparts” are counted. Fed. R. Civ. P 33(a)(1). Accordingly,

IT IS ORDERED that Defendant shall fully respond to Plaintiff’s interrogatories – including any objections – **on or before November 6, 2012**; Plaintiff has exhausted his 25-interrogatory limit.

IT IS FURTHER ORDERED that Plaintiff’s motion for sanctions or a protective order is **DENIED**, because Defendant was reasonable in making a challenge to the number of interrogatories.

s/Mark A. Randon

MARK A. RANDON

UNITED STATES MAGISTRATE JUDGE

Dated: October 18, 2012

Certificate of Service

I hereby certify that a copy of the foregoing document was served on the parties of record on this date, October 18, 2012, by electronic and/or first class U.S. mail.

s/Melody R. Miles

*Case Manager to Magistrate Judge Mark A. Randon
(313) 234-5542*